

HOUSE BILL 540
By Wood

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 12, relative to public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 12-4-109(a), is amended by adding the following new subdivision:

(3)

(A) All proposed contracts in excess of one hundred thousand dollars (\$100,000) not competitively bid shall be provided to the fiscal review committee prior to awarding the contract.

(B) The following documentation shall be required for all contracts not competitively bid, and furnished to the fiscal review committee under subdivision

(3)(A):

(i) Description of the unique service to be provided, including the need for, or requirement placed on the procuring agency, to acquire such service;

(ii) Evidence that a proposed contractor is the only source from which the required services can be obtained, or documentation of all efforts made to obtain bids from vendors to provide such services;

(iii) Evidence that the proposed contractor has experience in providing such services, and evidence that the proposed contractor has successfully provided such services for other entities; and

(iv) The names and addresses of the principal owners of the proposed contractor.

SECTION 2. Tennessee Code Annotated, Section 12-4-109, is amended by deleting subsection (d) in its entirety and by substituting instead the following new language:

(d)

(1) All departments and agencies of state government shall have a contract monitoring and management system. Contract monitoring reviews shall be made available to the fiscal review committee. Such reviews shall determine whether the contractor has accomplished the requirements of the contract within the time frames included in the contract and whether any corrective actions were taken or penalties were assessed if contract requirements were not met.

(2) The procuring department or agency shall be responsible for the effective management of all contracts procured herein under its purview. The commissioner of finance and administration, in the manner consistent with the approval of regulations promulgated in § 12-4-109(a)(1)(A), shall develop regulations that define service contracting fundamentals, including, but not limited to, contract management and monitoring of vendors, grants and subrecipient relationships. In addition to the requirements of subdivision (1), the regulations for monitoring shall require the filing of the monitoring plan with the department of finance and administration before any contracts are approved.

(3) All requests by procuring agencies seeking the commissioner of finance and administration's approval of an exception to the rules governing service contracts, as well as any action taken on the request, shall be provided by the commissioner of finance and administration to the fiscal review committee.

(e) The commissioner of finance and administration shall provide advance notice to the fiscal review committee of any proposed contracts in which the liability of the contractor is to be limited.

SECTION 3. Tennessee Code Annotated, Section 12-4-110(a), is amended by deleting the language "Any other provision of the law to the contrary notwithstanding, approval of the commissioner of finance and administration and no other officer of the state government is necessary, except as follows:" and by substituting instead the following language:

Subject to the requirements of section 12-4-109, approval of the commissioner of finance and administration and no other officer of the state government is necessary, except as follows:

SECTION 4. This act shall take effect July 1, 2003, the public welfare requiring it.